

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

IN THE MATTER OF:

NAME: MITCHELL, DABIEL RAY CHAPTER 13 No. 07-40723
MITCHELL, BETTY WALLS OUR FILE No. 12444-WG

**ADDRESS: 457 GANTTS GROVE CHURCH RD.
MOORESBORO, NC 28114**

SSN: **--- - 0290 & --- - 3020**

Debtors.

MOTION FOR AUTHORITY TO SELL REAL PROPERTY

COME NOW the above-named debtors, by and through their attorney of record, and respectfully move the Court pursuant to Section 363 of Title 11 of the United States Code, Rule 9013 of the Rules of Bankruptcy Procedure, and Rule 9013-1 of the Local Bankruptcy Rules for the entry of an order allowing the debtors to sell real property and in support hereof alleges and says that:

1. This case was commenced by the filing of a petition with the Clerk of this court on December 17, 2007.

2. The 341(a) meeting of creditors was held in Shelby, North Carolina on February 15, 2008.

3. The Chapter 13 plan was subsequently confirmed by order of this Court on May 8, 2008.

4. The plan presently provides for a monthly payment of \$955.00.

5. The debtors have received an offer to purchase their residential real estate located at 457 Gants Grove Church Road in Mooresboro, North Carolina, as more particularly described in that instrument recorded at plat 31659 map 1151 block 1 lot 22 in Book 13E Page 280 of the Cleveland County Registry. The said offer was made by Stephen D. and Venise M. Brintley for the said real estate and is for the sum of \$60,000.00.

6. The debtors aver that their residential real estate is encumbered by a first mortgage to HomeEq Servicing Corporation in the amount of \$106,240.00.

7. The plan filed by the debtors states that they will be surrendering their residential real estate and moving into rental property located at 444 Gants Grove Church Rd., Mooresboro, North Carolina

8. The debtors hereby move this Court for approval of the short sale.

9. The debtors aver that they have reasonable need for this sale.

10. The debtors are therefore moving the Court for approval of this purchase offer

and contract.

11. The debtors aver that the Offer to Purchase contract is subject to the approval of the United States Bankruptcy Court for the Western District of North Carolina upon proper notice to all parties and a court hearing. If this contract is approved by the court, then any breach of contract by the buyer will subject them to recovery of actual damages, punitive damages, costs and legal fees to be determined by the United States Bankruptcy Court, which the parties consent will have exclusive jurisdiction to resolve any matter or thing related to this contract.

12. The debtors are also moving the Court for such other and additional relief as to the Court may seem just and proper.

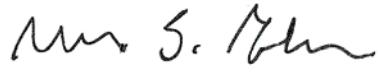
WHEREFORE, the debtors respectfully pray of the Court as follows:

A. That the motion for approval of the short sale of the real property of the debtors as set forth herein be granted and approved;

B. That the attorney for the debtors be granted an additional non-base legal fee of \$450.00 and expenses of \$140.00, said fees and expenses to be paid by the Trustee from funds paid by the debtors into the plan.

C. That the debtors have such other and further relief as to the Court may seem just and proper.

This the 22nd day of August 2008.



William S. Gardner
Gardner Law Offices
Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 32684
(704) 487-0616/Fax (888) 870-1644
e-mail: bgardner@maxgardner.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

IN THE MATTER OF:

NAME: MITCHELL, DABIEL RAY CHAPTER 13 No. 07-40723
MITCHELL, BETTY WALLS OUR FILE No. 12444-WG

ADDRESS: 457 GANTTS GROVE CHURCH RD.
MOORESBORO, NC 28114

SSN: --- - 0290 & --- - 3020

Debtors

**NOTICE OF MOTION FOR AUTHORITY TO SELL REAL PROPERTY
AND
NOTICE OF OPPORTUNITY FOR HEARING**

**(No-Protest Notice: No Hearing Will Be Held
Unless Request For Hearing Is Filed)**

PLEASE BE ADVISED that the above-named debtors have filed papers with the United States Bankruptcy Court for the Western District of North Carolina for approval of an offer to purchase and contract with Stephen D. and Venise M. Brintley pursuant to the following terms and conditions: The debtors have received an offer to purchase the residential real estate located at 457 Gantts Grove Church Rd., Mooresboro, North Carolina, from Stephen D. and Venise M. Brintley. The said offer is in the sum of \$60,000.00. The debtors are moving the Court of the short sale and for approval of a non-base legal fee of \$450.00 and expenses of \$140.00, said fee and expenses to be paid by the trustee from funds paid by the debtors into the plan.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.

TAKE FURTHER NOTICE that if you do not want the Court to grant the relief requested by the debtor in his motion, or if you want the Court to consider your views on the motion, then on or before the **15th day of September, 2008**, you or your attorney must do three (3) things:

1. File with the court a written response requesting that the Court hold a hearing and explaining your position. File the response at:

United States Bankruptcy Court
Western District of North Carolina
P.O. Box 34189
Charlotte, NC 28234-4189

If you mail your request to the Court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

2. **On or before the date stated above for written responses, you must also mail or fax a copy of your written request to:**

William S. Gardner
Attorney for the Debtor(s)
P.O. Box 1000
Shelby, NC 28151-1000
Fax No. 888.870.1647

and to:

Steven G. Tate
Chapter 13 Trustee
P.O. Box 1778
Statesville, NC 28687-1778

3. **Attend the hearing scheduled for Friday, September 26, 2008 at 9:30 a.m.** in Courtroom Number 5 at the Cleveland County Courthouse and Law Enforcement Center, 100 Justice Place, Shelby, North Carolina.

If you or your attorney do not take these steps, **A HEARING WILL NOT BE HELD**, and the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated this the 22nd day of August 2008



William S. Gardner
Gardner Law Offices
Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 32684
(704) 487-0616/Fax (888) 870-1644
e-mail: bgardner@maxgardner.com

CERTIFICATE OF SERVICE

WILLIAM S. GARDNER, attorney for the debtor, hereby certifies to the Court as follows:

1. I am not a party for the foregoing proceeding;
2. I am not less than 18 years of age;

3. I have this day served a copy of the foregoing **MOTION FOR AUTHORITY TO**

SELL REAL PROPERTY AND NOTICE OF OPPORTUNITY FOR HEARING on all parties in interest by placing the same in an envelope, first-class mail, postage prepaid, addressed to each person at his dwelling house or usual place of abode or to the place where he regularly conducts his business or profession as follows:

Daniel Ray Mitchell
Betty Walls Mitchell
457 Gants Grove Church Rd.
Mooresboro, NC 28114

Karen Jones
Carolina Homes & Land Company
357 West Main Street
Forest City, NC 28043

And by Electronic Notification to:

Steven G. Tate
Chapter 13 Trustee
P.O. Box 1778
Statesville, NC 28687-1778

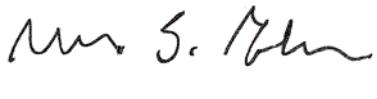
John Bramlett, Bankruptcy Administrator
402 W. Trade St., Room 200
Charlotte, NC 28202-1664

4. I have also served copies of the **NOTICE OF OPPORTUNITY FOR HEARING** on all creditors listed on the master mailing matrix, a copy of which is attached hereto, in the same manner and method as described in paragraph number 3 above;

5. To the best of my knowledge, information and belief, the parties in interest are not infants or incompetent persons;

6. Service as outlined herein was made within the United States of America.

Dated this _____ day of August 2008.



William S. Gardner
Gardner Law Offices
Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 32684
(704) 487-0616/Fax (888) 870-1644
e-mail: bgardner@maxgardner.com

MATRIX ATTACHED HERETO AS EXHIBIT "A"

Label Matrix for local noticing
0419-4
Case 07-40723
Western District of North Carolina
Shelby
Thu Aug 21 13:48:43 EDT 2008
eCAST Settlement Corporation
POB 35480
Newark, NJ 07193-5480

Barclays Capital Real Estate, Inc. dba HomEq
c/o Kimberly A. Sheek
8520 Cliff Cameron Drive
Suite 300
Charlotte, NC 28269-0019

Shelby Division
P.O. Box 34189
Charlotte, NC 28234-4189

Wells Fargo Bank, NA as Trustee
Main Office
c/o Rosicki, Rosicki & Associates, P.C.
Outsource Management
51 East Bethpage Road
Plainview, NY 11803-4224

Allied Financial Services, Inc.
114-B E. Dixon Blvd.
Shelby, NC 28152-6742

Alltel
P.O. Box 96019
Charlotte, NC 28296-0019

Alltel Communications
1 Allied Dr, Bldg 5 Third Floor
Little Rock, AR 72202-2013

Andrew Goldberg
c/o Rosicki, Rosicki & Associates, P.C.
Outsource Management Department
Main Office: 51 E. Bethpage Road
Plainview, New York 11803

Bankruptcy Administrator
402 W. Trade St., Room 200
Charlotte, NC 28202-1673

Beneficial
P.O. Box 10460
Virginia Beach, VA 23450-0460

Beneficial
P.O. Box 60175
City Of Industry, CA 91716-0175

Beneficial Finance Corp.
P.O. Box 88000
Baltimore, MD 21288-0001

Beth Carter
PO Box 2270
Davidson, NC 28036-5270

Broad River Area Medical & Aesthetics
P.O. Box 275
Cliffside, NC 28024-0275

CAROLINAS MEDICAL CENTER
CAROLINAS MEDICAL CENTER
PO BOX 32861
CHARLOTTE, NC 28232-2861

CLEVELAND COUNTY TAX COLLECTOR
PO BOX 370
SHELBY, NC 28151-0370

CSC Credit Services
652 N. Sam Houston Pkwy E. Ste 400
P.O. Box 674402
Houston, TX 77267-4402

Capital One Bank
P.O. Box 30285
Salt Lake City, UT 84130-0285

Capital One Bank
P.O. Box 85167
Richmond, VA 23285-5167

Capital One Bank
c/o Tsys Debt Management
Po Box 5155
Norcross, GA 30091-5155

Capital One Services, Inc.
P.O. Box 85617
Richmond, VA 23276-0001

CareOne
P.O. Box 129
Columbia, MD 21045-0129

Carolina Pulmonary & Comprehensive Sleep
1198 Wyke Rd.
Shelby, NC 28150-4259

Certegy Check Services, Inc.
P.O. Box 30046
Tampa, FL 33663-0001

Chase Manhattan Bank USA, NA
P.O. Box 15298
Wilmington, DE 19850-5298

Chase Manhattan Bank USA, NA
P.O. Box 15299
Wilmington, DE 19850-5299

ChexSystems
Attn: Consumer Relations
7805 Hudson Rd., Suite 100
Woodbury, MN 55125-1703

CitiFinancial
213 W. Dixon Blvd.
Shelby, NC 28152-6548

CitiFinancial
Bankruptcy Dept.
P.O. Box 140489
Irving, TX 75014-0489

Cleco Primary Care
101 E. Grover St.
Shelby, NC 28150-3803

Cleveland County Healthcare System
Cleveland Regional Medical Center
201 E Grover Street
Shelby, NC 28150-3940

Cleveland Cty Clerk Of Court
File 07-SP-
100 Justice Place
Shelby, NC 28150-4674

Cleveland Cty Tax Collector
P.O. Box 370
Shelby, NC 28151-0370

Cleveland Regional Medical Ctr
201 E. Grover St.
Shelby, NC 28150-3940

Cleveland Regional Medical Ctr
Emergency Physician Svcs
P.O. Box 601409
Charlotte, NC 28260-1409

Cleveland Urologic Surgery, P.A.
P.O. Box 1029
Shelby, NC 28151-1029

Client Services, Inc.
Ref 5846062
3451 Harry S. Truman Blvd.
St. Charles, MO 63301-4047

Credit Financial Services
Act 11150360002158409
100 W. Morgan St.
Durham, NC 27701-3315

Credit Financial Services
Act 3200460002305541
100 W. Morgan St.
Durham, NC 27701-3315

Credit Financial Services
Act 3260660002764532
100 W. Morgan St.
Durham, NC 27701-3315

Equifax Information Services LLC
P.O. Box 740256
Atlanta, GA 30374-0256

Experian
P.O. Box 2002
Allen, TX 75013-2002

GE Money Bank
Attn: Bankruptcy Dept.
P.O. Box 103104
Roswell, GA 30076-9104

Gilbert B Weisman
Becket and Lee LLP Attorneys Agent
POB 3001
Malvern, PA 19355-0701

(p)WACHOVIA BANK NA
P O BOX 13765
ROANOKE VA 24037-3765

Household Finance Corporation/Beneficial
by eCAST Settlement Corporation
as its agent
POB 35480
Newark, NJ 07193-5480

(p)INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 21126
PHILADELPHIA PA 19114-0326

ISO Claim Search
545 Washington Blvd.
Jersey City, NJ 07310-1607

Jeremy Wilkins, Substitute Trustee
Brock & Scott, PLLC
5431 Oleander Dr., Suite 200
Wilmington, NC 28403-5857

Jimmy F. Walls
457 Gantts Grove Church Rd.
Mooresboro, NC 28114-9612

LVNV Funding LLC its successors and assigns
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Laboratory Corp Of America Holdings
P.O. Box 2240
Burlington, NC 27216-2240

LexisNexis
1900 NW Expressway, Suite 1600
Oklahoma City, OK 73118-1845

Lowe's
P.O. Box 530914
Atlanta, GA 30353-0914

Lowe's/MCCBG
P.O. Box 981064
El Paso, TX 79998-1064

Medical Information Bureau
160 University Ave.
Westwood, MA 02090-2307

N.C. Department Of Revenue
P.O. Box 25000
Raleigh, NC 27640-0100

NC Department Of Revenue
P.O. Box 1168
Raleigh, NC 27602-1168

NC Housing Finance Agency
P.O. Box 28066
Raleigh, NC 27611-8066

North Carolina Department of Revenue
Bankruptcy Unit
P.O. Box 1168
Raleigh, NC 27602-1168

PMAB, Inc.
Act 2718171
P.O. Box 12150
Charlotte, NC 28220-2150

Park Dansan
Act 01525160
P.O. Box 248
Gastonia, NC 28053-0248

Park Dansan
Act 01551394
P.O. Box 248
Gastonia, NC 28053-0248

Park Dansan
Act 326066001527873
P.O. Box 248
Gastonia, NC 28053-0248

Robert Blanton
P.O. Box 32
Lattimore, NC 28089-0032

Robert E. Blanton
332 Westlee Street
Lattimore, NC 28089

Shelby Radiological Associates
222 N. Lafayette St., Suite 1
Shelby, NC 28150-4450

Spartan Financial Services
Act 3354783
13730 S. Point Blvd., Suite B
Charlotte, NC 28273-7715

Spartan Financial Services
Act 4395205-510
13730 S. Point Blvd., Suite B
Charlotte, NC 28273-7715

Spartan Financial Services
Act 4622684-510
P.O. Box 580381
Charlotte, NC 28258-0381

Telecheck Services
5251 Westheimer
Houston, TX 77056-5499

The Fidelity Bank
P.O. Box 8
Fuquay Varina, NC 27526-0008

The Freedom Point (Dept 358)
P.O. Box 31488
Charlotte, NC 28231-1488

Therapy Plus
247 Oak Street Ext. Suite 145
Forest City, NC 28043

TransUnion
P.O. Box 2000
Chester, PA 19022-2002

U.S. Attorney's Office
Suite 1700, Carillon Bldg.
227 W. Trade St.
Charlotte, NC 28202-1675

United States Attorney
Room 207 U.S. Courthouse
100 Otis Street
Asheville, NC 28801-2608

Wells Fargo Bank, NA as Trustee
c/o Rosicki, Rosicki & Associates, P.C.
51 East Bethpage Road
Plainview, NY 11803-4224

Wells Fargo NA As Trustee
c/o HomEq Servicing
701 Corporate Dr.
Raleigh, NC 27607

eCAST Settlement Corporation assignee of
GE Money Bank/Lowes Consumer
POB 35480
Newark, NJ 07193-5480

Betty Walls Mitchell
457 Gantts Grove Church Rd.
Mooresboro, NC 28114-9612

Daniel Ray Mitchell
457 Gantts Grove Church Rd.
Mooresboro, NC 28114-9612

Steven G. Tate
P.O. Box 1778
Statesville, NC 28687-1778

William S. Gardner
Gardner Law Offices
PO Box 1000
Shelby, NC 28151-1000

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

HomEq Servicing Corporation
4837 Watt Avenue, Suite 200
North Highlands, CA 95660

(d)HomEq Servicing Corporation
P.O. Box 13716
Sacramento, CA 95853-3716

INTERNAL REVENUE SERVICE
320 FEDERAL PL, RM 335
GREENSBORO, NC 27401

(d)IRS
P.O. Box 21126
Philadelphia, PA 19114

(d)Internal Revenue Service
P.O. Box 21126
Philadelphia, PA 19114

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)eCAST Settlement Corporation
POB 35480
Newark NJ 07193-5480

(d)eCast Settlement Corporation
P.O. Box 35480
Newark, NJ 07193-5480

	End of Label Matrix
Mailable recipients	84
Bypassed recipients	2
Total	86